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FILE

Ms. Donna R. Searcy  
Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, DC 20554  
FCC MAIL BRANCH

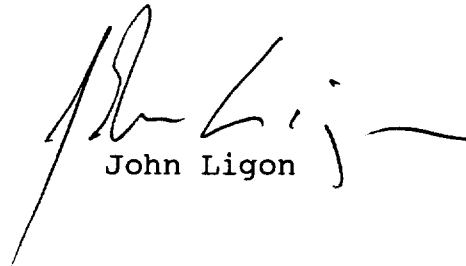
Re: CC Docket No. 92-77

Dear Ms. Searcy:

On behalf of ComTel Computer Corporation, I enclose an original and 4 copies of ComTel's Comments addressed to the Billed Party Preference issues of the May 8, 1992 NPRM in the referenced proceeding.

If there are any questions regarding this filing, please contact me at 201 509-9192.

Yours very truly,

  
John Ligon

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Before The  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of

Billed Party Preference  
for O+ InterLATA Calls

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CC Docket # 92-77

JUL 7 1992

FCC MAIL BRANCH  
**COMMENTS OF COMTEL COMPUTER CORPORATION**

ComTel Computer Corporation ("ComTel"), through its counsel, hereby submits comments in response to the Notice of Proposed Rulemaking ("NPRM") in the above-captioned proceeding addressed to the Billed-Party Preference issues.

As indicated in its comments addressed to the Proprietary-Calling-Card phase of this proceeding, ComTel is a telecommunications reseller providing services throughout the United States. The Company's primary service offering is the provision of operator-handled ("O+") services to hospitality and health-care businesses. Such services are provided through computerized store-and-forward equipment located at each subscriber's business premise which largely automates the handling of operator services calls. Using such technology and maintaining a high level of cost consciousness throughout its operations, ComTel has been generally able to maintain its rates at approximately the level of AT&T's rates for comparable services.

In the NPRM the Commission describes Billed Party Preference as a routing methodology for O+ interLATA payphone traffic -- and potentially for other types of operator-assisted interLATA traffic, whereby interexchange calls dialed from equal access areas on a O+ basis would be routed to the operator service provider (OSP) preselected by the party being billed for the call. While the Commission expresses a tentative disposition to find that Billed Party Preference would serve the public

interest, it recognizes that serious questions of cost and service quality must be addressed before that issue can finally be resolved. Inasmuch as those questions must initially be addressed by the proponents of Billed Party Preference, the Regional Bell Operating Companies, ComTel will focus its comments in this initial round on the issue of whether, assuming an ultimate Commission decision to embrace Billed Party Preference as a matter of policy, that the Commission should apply that policy to OSPs, such as ComTel, serving institutional aggregators, such as hotels, through the use of automated store-and-forward technology.

ComTel submits that the following considerations are relevant to the disposition of this issue:

- 1) whether Billed Party Preference is required to protect a legitimate consumer interest in this market segment;
- 2) the impact of adopting Billed Party Preference on competition in OSP markets;
- 3) whether Billed Party Preference unduly interferes with entirely legitimate business interests of non-public aggregators; and
- 4) whether Billed Party Preference implementation is technically feasible for automated OSPs.

Billed Party Preference is not required for OSP service provided on an automated basis to institutional aggregators

As the Commission observes in the NPRM, it has adopted comprehensive rules over the course of the last eighteen months designed to both preserve consumer choice in the OSP market and to assure that the consumer can readily obtain information as to the identity of the OSP handling a call from such an aggregator location as well as the charges for that call. With consumers thereby armed with the ability to determine the charges of an OSP chosen by the aggregator and the right to access other carriers from that

aggregator location, in combination with the entirely predictable market response of carriers claiming to offer lower charges or better service aggressively promoting "dial around" by such consumers, there has been a clear trend toward lower rates from most if not all OSPs and toward fewer consumer complaints about OSP service. Moreover, as the Commission also observed, these rules will have been in place and working for an additional several years before Billed Party Preference could be brought on line, even if the Commission ultimately determines to adopt Billed Party Preference as a matter of policy. Thus, given the clear success of the Commission's existing OSP rules in the short time they have been in place, it is entirely predictable that any "consumer choice" problems which may exist today in regard to OSP services will be nothing but an historic footnote by the time Billed Party Preference could have been implemented.

For operator services provided through institutional aggregators (e.g., hotels) by OSPs employing automated store-and-forward technology, two additional factors argue against the imposition of Billed Party Preference. First, such institutional aggregators have traditionally chosen to recover a portion of the firm's overhead costs from charges for telephone services offered the institution's customers. Not only do consumers generally expect to incur somewhat higher charges when using telephone service provided by such an institution, but the removal of the opportunity to recover such overhead costs from telephone service offered to customers, through mandatory Billed Party Preference, will simply result in a reallocation of those overhead costs to other services provided by the institution. Thus, in the end the consumer/customer experiences no savings in overall institutional charges and suffers the further indignity of having to pay higher overall operator service charges in order to pay for the Billed Party Preference system itself. Additionally, OSPs using automated store-and-forward technology to provide service to such institutional

aggregators are, as a class among the most efficient and cost effective of the OSPs. As such they are usually able to maintain rates at or near the lowest in the market while still compensating the aggregator in an amount required by the aggregator to cover its overhead contribution. However, as explained below, imposition of Billed Party Preference on this class of OSPs is nearly certain to lead to abandonment of the market by most of those automated OSPs. The consequences for consumers of wholesale market exit by the most efficient class of OSPs does not require further elaboration.

Finally, the Commission must not let the public interest rhetoric which seems to be driving this issue obscure the fact that the driving force behind Billed Party Preference comes almost exclusively from the RBOCs, who have a very clear economic incentive for its implementation in the form of additional access charge revenues from their captive IXC/OSP "clients". In the final analysis, ComTel submits that such an RBOC interest has no bearing on the public interest, and that there is no likelihood of a public interest need for Billed Party Preference which would justify the substantial costs --both economic and competitive -- of such a regime, a cost which ultimately will be borne by consumers of OSP services.

**Billed Party Preference would substantially diminish competition for OSP services**

Billed Party Preference necessarily relies on a data base of presubscribed carrier choices for the parties to be billed for OSP calls. While the Commission holds out the possibility of a data base of 0+ presubscription choices separate from the 1+ presubscription data base, ComTel believes that the cost of establishing such a separate 0+ presubscription data base, particularly the costs of balloting all of the equal access users in the country, will rule out any such separate data base and that, in any event, such a 0+ data base would largely

mirror the 1 + data base. Consider then that the "big three" IXC's (AT&T, MCI and Sprint) control over 90 percent of the 1 + interstate traffic in the country (which market share appears to represent a reasonable proxy for the presubscribed base of those carriers) and that this base combined with the traffic of another handful of secondary 1 + carriers accounts for essentially 95 percent of all interstate 1 + traffic. This clearly shows that routing all 0 + traffic pursuant to the presubscribed data base under Billed Party Preference will have the effect, whether intended or not, of freezing specialized 0 + carriers such as ComTel out of the market. The 0 + market will come to mirror the largely oligopolistic 1 + market and no other competitors need apply.

Plainly, competition inherently benefits consumers. Without dispute, some aberrations, in terms of consumer benefit, occurred during the early stages of competitive development in the 0 + market. However, as already discussed, such problems have been largely addressed by a combination of regulatory oversight and market forces, so that, by the time Billed Party Preference could be implemented, such aberrations will be seen as nothing but an anomaly of the start-up phase for 0 + competition. And certainly competition for 0 + services, particularly from the specialized 0 + carriers, has brought important benefits to consumers, including additional services, renewed attention to cost control, steadily declining charges and renewed attention to consumer interests by the dominant provider of operator services. Frankly, given the strongly pro competitive policies of this Commission and the clear gains for consumers which those policies have produced, the Commission's apparent disposition to buy this latest RBOC product -- which, at its essence, is simply another example of packaging the RBOC "gee whiz" technology into ever higher costs for telephone service -- is difficult to understand when it is so clear that no compelling public need exists for the product.

Billed Party Preference represents an unwarranted restriction on business activities of non-public aggregators

Whatever the merit of Billed Party Preference as to calls placed from telephones located in public environments, such as airports and public thoroughfares, ComTel submits that the imposition of this regime on telephone service provided from non-public aggregators, such as hotels, is an unneeded interference by the government with such an institution's long established prerogative to determine the conditions and charges for services and goods offered. Such an institution is not required to offer telephone service and does so only in response to consumer demand and/or competitive imperative. Its determination of the terms under which such service will be offered -- including the question of whether to allocate a portion of its overhead requirement to such telephone service -- should similarly be driven by market forces, not government fiat. The Commission has already taken steps to assure that consumers are able to make an informed choice as to whether to utilize telephone service offered by such a non-public aggregator, including the right to access an OSP other than that chosen by the aggregator to handle O+ calls from its location. To go further and mandate that the non-public aggregator's established terms for the use of telephone service provided to its customers will be bypassed even in the absence of consumer choice represents an unwarranted and largely paternalistic government intrusion into the operation of a competitive market.

For OSPs Providing Service On An Automated Basis, Implementation Of Billed Party Preference Appears To Be Technically Unfeasible

As noted briefly at the outset of these comments, Comtel's Automated Operator Service offers standard O+ operator services on a fully automated basis. This service is provided through computerized store-and-forward

equipment located at each subscriber-aggregator's business premise and connected directly to that subscriber's PBX equipment. In operation, ComTel's computerized equipment analyzes each call dialed with a 0 prefix from a station served by the subscriber's PBX. For 0+ calls which are to be billed to a calling card or credit card and for calls placed on a "collect" basis, ComTel's computerized equipment captures the billing and destination number information and, in the case of automated collect calls, records the caller's identification for playback to the called party along with an acceptance request. That equipment then dials the destination number, using resold 1+ facilities, completes the connection, records the call length, and prepares a billing record upon completion of the call. Where a call requires live operator handling, e.g., third-party-charge or local operator access, ComTel's computerized equipment hands the call off to either the local exchange operator or to an interLATA carrier which offers such services.

As can readily be seen, those calls which are completely handled by ComTel's automated equipment never touch that portion of an LEC network where Billed Party Preference would be implemented. Even assuming that it were possible to develop a workable interface between ComTel's automated call handling equipment and the LEC Billed Party Preference network, a major redesign of ComTel's equipment would be required, resulting in both substantial additional capital costs for ComTel and loss of most of the economies of the present system which have enabled ComTel to offer its services at commission levels which are attractive to aggregators while still offering rates to the consumer which are generally at or near the level offered by AT&T. Thus, a determination by the Commission to impose Billed Party Preference on 0+ calls handled by ComTel and other automated OSPs will have the likely effect of destroying the economies which represent the competitive edge for such carriers and thereby eliminating many of the most efficient and cost effective

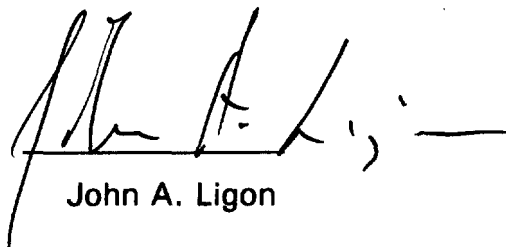
OSPs from the market. ComTel respectfully submits that such a course does not serve the public interest.

In sum, ComTel submits that, at least as to operator services offered at non-public, non-payphone aggregator locations, any public interest benefit of Billed Party Preference is outweighed by the costs -- both economic and competitive -- of implementing such a regime. More particularly as to operator services provided by OSPs using automated store-and-forward equipment, mandated Billed Party Preference would sound the death knell for a segment of the competitive OSP industry renowned for its innovation and cost effectiveness. To put the issue in perspective, the apparently insatiable appetite of the RBOCs for ever increasing access charge revenues, and the drumbeat which they now maintain for the latest gold-plated product to be "offered" the IXC/OSPs, cannot be permitted to obscure the marginal public benefit and the substantial costs (including substantially diminished competition) associated with that product.

Respectively submitted,

COMTEL COMPUTER CORPORATION

By

A handwritten signature in black ink, appearing to read "John A. Ligon", is written over a horizontal line.

John A. Ligon

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**CERTIFICATE OF SERVICE**

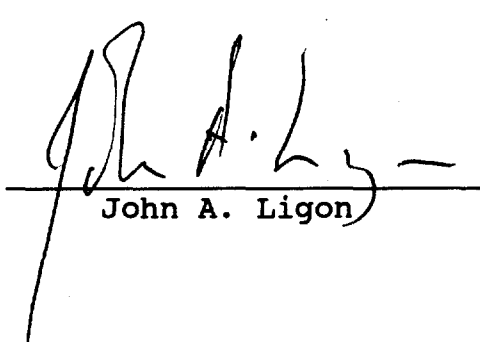
I hereby certify that I served copies of the foregoing Comments of ComTel Computer Corporation on the following persons by depositing such copies with the United States Postal Service properly address and postage prepaid:

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John A. Ligon

Dated: July 7, 1992